

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LORELL PURDIE,

Petitioner,

-against-

D.E. LACLAIRE, Superintendent, Franklin
Correctional Facility,

Respondent.

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**NOT FOR PRINT OR
ELECTRONIC
PUBLICATION**

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

08-CV-5108 (KAM) (VP)

MATSUMOTO, United States District Judge:

Proceeding *pro se*, petitioner Lorell Purdie ("Purdie") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. Section 2254 ("petition"). (See Doc. No. 1, Petition ("Pet.").) Purdie is currently serving an eight year sentence for criminal possession of a weapon in the second degree following conviction after a jury trial in Kings County Supreme Court. (See id.) In his petition, Purdie raised various constitutional claims including (i) violation of due process in the grand jury proceeding; (ii) ineffective assistance of counsel; (iii) prosecution failure to disclose exculpatory information as required by *Brady*; (iv) insufficiency of the evidence; and (v) due process violations based upon the trial judge's allegedly improper questioning of petitioner during trial and the prosecutor's allegedly improper argument during summation. (See id.) Respondent requested summary denial of the petition. (See Doc. No. 5, Respondent's Responsive Pleadings to

Petition.)

On April 7, 2010, the court respectfully referred this matter to Magistrate Judge Victor Pohorelsky for a report and recommendation ("Report & Recommendation" or "R&R"). (See Order dated 4/7/10.) On June 7, 2010, Judge Pohorelsky issued an opinion thoroughly analyzing each of Purdie's constitutional claims, determining that each lacked merit, and accordingly recommending that the court deny the petition in its entirety. (See Doc. No. 8, R&R dated 6/7/10.) On that same date, notice and a copy of Judge Pohorelsky's Report and Recommendation was sent electronically to respondent via the court's electronic filing system as well as by mail to petitioner at the Arthur Kill Correctional Facility. (See Docket Text accompanying 6/7/10 R&R.)

Objections to a Report and Recommendation must be filed within fourteen (14) days of its receipt. (See 28 U.S.C. § 636(b)(1)(C).) Judge Pohorelsky's Report & Recommendation advised the parties of this requirement and that noted that failure file objections within the specified time would waive the party's right to appeal any judgment or order entered by this court in reliance upon the Report and Recommendation. (See R&R at 24.) Allowing three additional days for service of the Report and Recommendation by mail pursuant to Federal Rules of Civil Procedure 6(d) and 5(b)(2)(C), the fourteen day period for timely

filings any objections to the June 7, 2010 Report & Recommendation expired at the latest on June 24, 2010. (See 28 U.S.C. § 636(b)(1)(C); see also Fed. R. Civ. P. 6; Fed. R. Civ. P. 72(b)(2).) Thus, the statutory period for filing objections has now lapsed, and no objections to the Report & Recommendation have been filed, even as of the date of this order.

A district court reviews those portions of a report and recommendation to which a party has timely objected under a *de novo* standard of review and "may accept, reject, or modify, in whole or in part, the findings or recommendations . . ." 28 U.S.C. § 636(b)(1)(C). However, where no objections to a Report and Recommendation have been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Mindful of the deferential standard federal courts must apply when reviewing state court determinations on habeas review, see, e.g., Williams v. Taylor, 529 U.S. 362, 413 (2000), and upon a careful review of the record and Judge Pohorelsky's thorough and well-reasoned Report and Recommendation, the court finds no clear error. Accordingly, the court hereby affirms and adopts the Report and Recommendation in its entirety as the opinion of the court. Accordingly, the petition for a writ of habeas corpus

is denied, and the Clerk of the Court is respectfully requested to mail a copy of this order to petitioner and to close this case.

SO ORDERED.

Dated: July 19, 2010
Brooklyn, New York

/s/
Kiyo A. Matsumoto
United States District Judge